

Ian N. Feinberg (SBN 88324)  
[ifeinberg@mayerbrownrowe.com](mailto:ifeinberg@mayerbrownrowe.com)  
Dennis S. Corgill (SBN 103429)  
[dcorgill@mayerbrownrowe.com](mailto:dcorgill@mayerbrownrowe.com)  
Eric B. Evans (SBN 232476)  
[eevans@mayerbrownrowe.com](mailto:eevans@mayerbrownrowe.com)  
MAYER, BROWN, ROWE & MAW LLP  
Two Palo Alto Square, Suite 300  
3000 El Camino Real  
Palo Alto, CA 94306-2112  
Telephone: (650) 331-2000  
Facsimile: (650) 331-2060

Attorneys for Plaintiff  
FREECYCLESUNNYVALE

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**OAKLAND DIVISION**

FREECYCLESUNNYVALE,  
a California unincorporated association,

Plaintiff,

v.

THE FREECYCLE NETWORK,  
an Arizona corporation,

Defendant.

THE FREECYCLE NETWORK, INC., an  
Arizona Corporation,

Counterclaimant,

v.

FREECYCLESUNNYVALE, a California  
unincorporated association,

Counterdefendant.

CASE NO. C06-00324 CW

**STIPULATED REQUEST FOR ORDER  
CHANGING TIME UNDER CIVIL L.R. 6-2**

Before: Honorable Claudia Wilken

1 PURSUANT TO CIVIL L.R. 6-2, Plaintiff FreecycleSunnyvale and Defendant The  
2 Freecycle Network, Inc., respectfully request this Court to enter an order changing time.

3 **I. INTRODUCTION**

4 The above-captioned lawsuit concerns The Freecycle Network's claim of trademark rights  
5 over the term "freecycle," the phrase "The Freecycle Network," and a stylized logo depicting the  
6 term "freecycle." FreecycleSunnyvale seeks a declaration of non-infringement or, in the  
7 alternative, that the alleged trademarks are generic or that The Freecycle Network has engaged in  
8 naked licensing. The Freecycle Network filed counterclaims, alleging trademark infringement,  
9 contributory infringement, and unfair competition under the Lanham Act, as well as California  
10 state-law claims for unfair competition. Counsel for both parties appear *pro bono*. This Court's  
11 Case Management Order presently sets the fact discovery cutoff for February 2, 2006. *See* Order  
12 (Docket # 57). For the following reasons, FreecycleSunnyvale and The Freecycle Network  
13 respectfully request a ninety (90) day extension of the fact discovery cutoff and all other  
14 deadlines in the Case Management Order.

15 **II. REASONS FOR THE REQUESTED ENLARGEMENT OF TIME**

16 First, the parties believe that additional time to conduct discovery is necessary in this case.  
17 In an effort to amicably resolve discovery disputes, the parties have met and conferred on several  
18 occasions, most recently on December 18, 2006. Many matters have been resolved amicably, and  
19 the parties will supplement their discovery. In addition, third party discovery is ongoing. Much  
20 of the additional discovery that will be forthcoming is preliminary to selecting deponents and  
21 scheduling depositions.

22 Second, the parties will again focus their efforts in an attempt to resolve their differences  
23 through mediation. Previously, in this Court, the parties participated in court-connected  
24 mediation on June 13, 2006, but were unable to settle the lawsuit or narrow the issues. A related  
25 case, which is on appeal to the Ninth Circuit, was selected for inclusion in the Ninth Circuit's  
26 mediation program. That mediation is scheduled for January 18 and 19, 2007. The parties will  
27 attempt to reach a global settlement that will include the action before this Court.  
28

Third, assuming that fact discovery will be extended, the other deadlines in this Court's Case Management Order should be similarly extended by ninety (90) days.

### III. DISCLOSURE OF PREVIOUS TIME MODIFICATIONS

The parties have previously sought orders modifying time in this case. On June 2, 2006, this Court entered an order extending time to complete court-connected mediation in the Northern District of California. *See* Order (Document # 35). On August 1, 2006, this Court entered an order extending the fact discovery cutoff and related deadlines. *See* Order (Document #44). On October 3, 2006, this Court entered an order extending the fact discovery cutoff and related deadlines. *See* Order (Document #57).

### IV. EFFECT OF THE TIME MODIFICATION ON THE SCHEDULE OF THE CASE

The parties attach a proposed order that revises this Court's Case Management Order by extending the fact discovery cutoff and all other deadlines by approximately ninety (90) days. The following table summarizes the proposed changes to the Case Management Order and to the schedule of the case.

Deadlines	Current Cutoff	Proposed Cutoff
Completion of Fact Discovery:	02/02/07	05/02/07
Disclosure of identities and reports of expert witnesses:	03/01/06	06/01/07
Completion of Expert Discovery:	03/30/07	06/29/07
Plaintiff to file dispositive motion and notice for hearing on 12/8/06 at 10:00 a.m.:	03/30/07	06/29/07
Defendant's opposition and any cross motion (contained in one brief):	04/13/07	07/13/07
Plaintiff's reply/opposition:	04/20/07	07/20/07
Surreply:	04/27/07	07/27/07

Deadlines	Current Cutoff	Proposed Cutoff
Further Case Management Conference and all case-dispositive motions to be heard at 10:00 a.m. on or before:	05/11/07	08/10/07
Final Pretrial Conference at 1:30 p.m. on:	[to be set]	[to be set]
A Trial will begin at 8:30 a.m. on:	[to be set]	[to be set]

The parties' proposed order will not affect the ADR process in this Court. On June 13, 2006, the parties engaged in court-connected mediation, which was conducted by William N. Herbert, Esquire. That mediation was unsuccessful in settling the lawsuit or narrowing the issues to be litigated. The parties' proposed order will facilitate the ADR process in a related case before the Ninth Circuit, which may settle the lawsuit or narrow the issues to be litigated.

**V. CONCLUSION**

For the foregoing reasons, the parties respectfully request an order changing time that grants an approximately ninety (90) day extension of the fact discovery cutoff and all other deadlines in the Case Management Order.

Dated: December 19, 2006

MAYER, BROWN, ROWE & MAW LLP  
IAN N. FEINBERG  
DENNIS S. CORGILL  
ERIC B. EVANS

By: /s/  
Dennis S. Corgill

Attorneys for Plaintiff  
FREECYCLESUNNYVALE

Dated: December 19, 2006

PERKINS COIE LLP  
PAUL J. ANDRE  
LISA KOBIALKA  
ESHA BANDYOPADHYAY  
SEAN M. BOYLE

By: /s/  
Esha Bandyopadhyay

Attorneys for Defendant  
THE FREECYCLE NETWORK, INC.